

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

JOSHUA NAKAGAWA,	)	CV. NO. 11-00130 LEK-BMK
	)	
Plaintiff,	)	(CONSOLIDATED CASES)
	)	
vs.	)	
	)	
COUNTY OF MAUI; MAUI	)	
POLICE DEPARTMENT; ERIC	)	
LOSVAR; HARRY MATSUURA;	)	
RUSSELL KAPAHULEHUA; and	)	
JUN HATTORI,	)	
	)	
Defendants.	)	
_____	)	
	)	
ANTHONY LUM-JOHN,	)	CV. NO. 12-00569 LEK-BMK
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	
COUNTY OF MAUI; MAUI	)	
POLICE DEPARTMENT; JUN	)	
HATTORI; RUSSELL	)	
KAPAHULEHUA; ERIK LOSVAR;	)	
HARRY MATSUURA; DOE	)	
DEFENDANTS 1-10; and DOE	)	
ENTITIES 1-5,	)	
	)	
Defendants.	)	
_____	)	

**AMENDED RULE 16 SCHEDULING ORDER**

Pursuant to Fed. R. Civ. P. 16 and LR 16.2, a scheduling conference was held on January 15, 2013, before the Honorable Barry M. Kurren, United States Magistrate Judge. Appearing at the conference were Michael Jay Green, Esq., George A. Burke, Esq., Moana M. Lutey, Esq. and Hayden Aluli, Esq., by phone.

Pursuant to Fed. R. Civ. P. 16(e) and LR 16.3, the Court enters this amended scheduling conference order:

**TRIAL AND PRETRIAL CONFERENCE SCHEDULING:**

1. **JURY** trial in this matter will commence before the Honorable Leslie E. Kobayashi, United States District Judge on November 13, 2013, at 9:00 a.m.
2. A final pretrial conference shall be held on October 2, 2013, at 9:30 a.m. before the Honorable Barry M. Kurren, United States Magistrate Judge.
3. (RESERVED)
4. Pursuant to LR 16.6, each party herein shall serve and file a separate final pretrial statement by September 25, 2013.

**MOTIONS:**

5. All motions to join additional parties or to amend the pleadings shall be filed by April 13, 2013.

6. Other non-dispositive motions, except for motions in limine and discovery motions, shall be filed by August 15, 2013.

7. Dispositive motions shall be filed by June 13, 2013.

8. Motions in limine shall be filed by October 23, 2013.

Any opposition memorandum to a motion in limine shall be filed by October 30, 2013.

**DISCOVERY:**

9. Unless and until otherwise ordered by the Court, the parties shall follow the discovery plan agreed to by the parties herein pursuant to Fed. R. Civ. P. 26(f).

10. (RESERVED)

11. Pursuant to Fed. R. Civ. P. 26(a)(2), each party shall disclose to each other party the identity and written report of any person who may be used at trial to present expert evidence under Rules 702, 703, or 705 of the Federal Rules of Evidence. The disclosures pursuant to this paragraph shall be according to the following schedule:

a. All plaintiffs shall comply by May 14, 2013.

b. All defendants shall comply by June 13, 2013.

Disclosure of the identity and written report of any person who may be called solely to contradict or rebut the evidence of a witness identified by another party

pursuant to subparagraphs a and b hereinabove shall occur within thirty (30) days after the disclosure by the other party.

**12.** Pursuant to Fed. R. Civ. P. 16(b)(3) and LR 16.2(a)(6), the discovery deadline shall be September 16, 2013. Unless otherwise permitted by the Court, all discovery pursuant to Federal Rules of Civil Procedure, Rules 26 through 37 inclusive must be completed by the discovery deadline. Unless otherwise permitted by the Court, all discovery motions and conferences made or requested pursuant to Federal Rules of Civil Procedure, Rules 26 through 37 inclusive of LR 26.1, 26.2 37.1 shall be heard no later than thirty (30) days prior to the discovery deadline.

**SETTLEMENT:**

**13.** A settlement conference shall be held on September 19, 2013, at 10:00 a.m. before the Honorable Barry M. Kurren, United States Magistrate Judge.

**14.** Each party shall deliver to the presiding Magistrate Judge a confidential settlement conference statement by September 12, 2013. The parties are directed to LR 16.5(b) for the requirements of the confidential settlement conference statement.

**15.** The parties shall exchange written settlement offers and meet and confer to discuss settlement before the date on which settlement conference statements are due.

**TRIAL SUBMISSIONS:**

**JURY ISSUES:**

**16.** The parties shall prepare in writing and submit to the Court any special voir dire inquiries they wish the judge to ask the jury panel.

**17.** The parties shall confer in advance of trial for the purpose of preparing an agreed upon special verdict form, if a special verdict form is to be requested. The agreed upon special verdict form shall be submitted to the Court. In the event of disagreement, the parties shall submit all proposed special verdict forms to the Court.

**18.** The parties shall confer in advance of trial for the purpose of preparing an agreed upon concise statement of the case that may be read by the trial judge to the jury during voir dire. The agreed upon concise statement of the case shall be submitted to the Court. In the event of disagreement, the parties shall submit all proposed concise statements of the case to the Court.

**19.** Jury instructions shall be prepared in accordance with LR 51.1 and submitted to the Court.

**20.** All submissions to the Court required by paragraphs 16, 17, 18 and 19 shall be made by October 30, 2013.

**WITNESSES:**

**21.** By October 23, 2013, each party shall serve and file a final comprehensive witness list indicating the identity of each witness that the party will call at trial and describing concisely the substance of the testimony to be given and the estimated time required for the testimony of the witness on direct examination.

**22.** The parties shall make arrangements to schedule the attendance of witnesses at trial so that the case can proceed with all due expedition and without any unnecessary delay.

**23.** The party presenting evidence at trial shall give notice to the other party the day before of the names of the witnesses who will be called to testify the next day and the order in which the witnesses will be called.

**EXHIBITS:**

**24.** By October 16, 2013, the parties shall premark for identification all exhibits and shall exchange or, when appropriate, make available for inspection all exhibits to be offered, other than for impeachment or rebuttal, and all demonstrative aids to be used at trial.

**25.** The parties shall meet and confer regarding possible stipulations to the authenticity and admissibility of proposed exhibits by October 23, 2013.

**26.** By October 30, 2013, the parties shall file any objections to the admissibility of exhibits. Copies of any exhibits to which objections are made shall be attached to the objections.

**27.** The original set of exhibits and two copies (all in binders) and a list of all exhibits shall be submitted to the Court the Thursday before trial.

**DEPOSITIONS:**

**28a.** By October 23, 2013, the parties shall serve and file statements designating excerpts from depositions (specifying the witness and page and line referred to) to be used at trial other than for impeachment or rebuttal.

**b.** Statements counter-designating other portions of depositions or any objections to the use of depositions shall be served and filed by October 30, 2013.

**TRIAL BRIEFS:**

**29.** By October 30, 2013, each party shall serve and file a trial brief on all significant disputed issues of law, including foreseeable procedural and evidentiary issues, setting forth briefly the party's position and the supporting arguments and authorities.

**30.** (RESERVED)

**OTHER MATTERS:** None.

IT IS SO ORDERED.



/s/ Barry M. Kurren  
United States Magistrate Judge  
Dated: January 24, 2013

JOSHUA NAKAGAWA V. COUNTY OF MAUI, ET AL.; CV. NO. 11-00130 LEK-BMK and ANTHONY LUM-  
JOHN V. COUNTY OF MAUI, ET AL.; CV. NO. 12-00569 LEK-BMK; (CONSOLIDATED CASES); Amended  
Rule 16 Scheduling Order